

MISSION
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MAR 28 1995

MAIL ROOM

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File No. E-99-383

Elehue Kawika Freemon and
Lucille Freemon
Complainants,
CC Docket No. 94-89
v.

DOCKET FILE COPY ORIGINAL

File No. E-90-393

American Telephone and Telegraph Company
Defendant.

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DOCKET FILE COPY ORIGINAL

1. Jim Waide's full Exhibit mailed by Dr. Gisela Spieler to all parties on March 22, 1995. **This exhibit was marked as Exhibit III in appellants "Appeal."**
2. Motion for Appeal Correction: 2. "...Procedure Act and CFR 1.302 TO THE FEDERAL COMMUNICATION COMMISSION REVIEW BOARD OR COMMISSIONER. "
should read:
Correction: 2. "...Procedure Act pursuant to CFR. CFR 1.302 **and 0.362** TO THE FEDERAL COMMUNICATION COMMISSION REVIEW BOARD OR COMMISSIONER. "
3. Table of Citations 5 U.S.C.S. § 10069c0 and 1009(c)
should read:
5 U.S.C.S. § **1006(c)** and 1009(c)
4. Page one of Appeal After caption it reads:
American Telephone and Telegraph Company Defendant.

should read:

American Telephone and Telegraph Company
Defendant.

APPEAL

1. Statement of the Case

No. of Copies rec'd.
List A B C D E

OTCP

[Page No., Paragraph]

5. page 3, 10 10. The oreder stated ..., should read: 10. The **order** stated ...
6. page 4, 25 "... at HO12, ..." should read: 25. "... at **HDO12**, ..."
7. page 6, 32 ...in paragaph 33, above. should read ...in **paragraph** 33, above.
8. page 6, 33 ...for evidentary use should read: ...for **evidentiary** use
9. page 10, 66 The version of Ms. Nancy Zolnikovat should read: The version of
Ms. Nancy **Zolnikov at**
10. page 15, 96 ...degree versu a Pro should read: ...degree **versus** a Pro
11. page 17, 133 ...happen as per Ms. Nancy Zolniko should read: ...happen as per
Ms. Nancy **Zolnikov**
12. page 17, 138 ...Mrs. Freemon spoketo should read: ...Mrs. Freemon **spoke to**
13. page 20, 161 ... lack of "heighten duty" should read: ...lack of "heightened
duty."

Dr. Gisela Spieler Certificate of Service server for,

Mr. Elehue K. Freemon
General Delivery
Big Bear Lake, CA 92315
(909) 886-8714

Date: March 25, 1995

Before the
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of

Elehue Kawika Freemon and
Lucille Freemon
Complainants,

v

CC Docket No. 94-89
File No. E-90-393

American Telephone and Telegraph Company
Defendant.

Request for Participation

Under section 1.225 (a), (b), (c) of 47 CFR ch.1, I, James D. Waide, formally request participation in the hearing/appeal in the above said caption.

To the Federal Communication Commission,

1. I have read the Initial Decision of Administrative Law Judge Walter C. Miller (ID) pertaining to this case supporting pleadings, opinions, order(s). It appears to be written in a biased array of invalid allegations. The comments and personal opinions of Judge Miller appear to have nothing to do with the basis of this case. Many of the comments are unwarranted and are unproven by Judge Miller. There are several things which have been written in Judge Miller's Initial Decision and what I have read from the court transcripts that I would like to bring out:

2. I have known Mr. Elehue K. Freemon for over six years. His good character in this hearing has been needlessly soiled by ALJ Walter C. Millers false and unsubstantiated allegations.

3. In the last two years I have assisted Mr. Freemon with his pleadings. He has relied on my abilities to make sure his FCC correspondence would be well written. The numerous misspelled words and the grammatical errors have been a part all of Mr. Freemons FCC pleading drafts that I personally have tried to assisted in correcting. When reading Judge Millers Initial Decision [ID] I also noticed examples of Judge Miller's misspelled words. At ID, par. 27

"positiony" and ID, par. 34 "Zelnikov". My understanding is that our tax moneys also supply Judge Miller with a full time secretary.

4. The comments and allegations that Judge Miller made at ID, Footnote 5 are unwarranted.

5. The numerous comments and allegations that Judge Miller made about Mr. Freemon trying not to find a lawyer are also unwarranted.

6. One particular Attorney that was approached was Sol Levitt as late as late August of 1994. Unfortunately though he had promised he would assist in this case the judges bias comments at one of the judge Millers Memorandum Opinion and Orders released September 28, 1994 stating " No self - respecting attorney could clean up the procedural mess the Freemons have made." was a determining factor in changing Mr. Freemons mind in bringing in a close friend.

7. ID, 12 through 16, Mrs. Lucille Freemon, an acquaintance, has been a party to this case since I have known her for about three years. Judge Miller, again, has no basis for his comments and they should be dismissed. Mr. Freemon has tried to assist his mother by keeping her up-to-date regarding the case, which was difficult because of her Alzheimer's disease and where we both reside, in Big Bear Lake, California. Over the years Mr. Freemon has talked to his mother on the telephone about the case while I was present, when driving down the mountain was not convenient.

8. To have Judge Miller, who has never met Mrs. Lucille Freemon, as I have, to assume that Mr. Freemon was lying is irresponsible and shows a lack of good judgment. Not only that, to have the doctor's letter dismissed without being substantiated, although I understand this to be a Administrative Law hearing, the reasoning is unjustly unheard of in a court of law. I believe Judge Miller's credentials, as a medical doctor, as Ms. Evelyn Freemon states in her appearance notice on March 13, 1995, should be presented and his diagnosis of an unseen patient should be made clear to the commission. See TR page 320, line 12 through page 321, line 23; pages 331, line 18 through pages 333, line 25.

9. I, further understand that Mr. Elehue Freemon [pro se], though he meant well, unknowingly made a mistake in signing his mothers notice of appearance in assisting her in this case. We thought since the Freemon family and her medical doctor would actually make the final decision if Mrs. Freemon could continue to participate this would give the time needed for Mrs. Freemon and her family to think about the case. This decision would be based on her noticeable worsened mental and physical condition.

10. ID. 18 states "Elehue Freemon obviously believed that his chances of receiving a favorable cash damage award from the FCC would be enhanced if a "Black" female were one of the complainants." I also must agree with Ms. Evelyn Freemon that this statement is insulting and untrue, not only that, it shows the personality and disposition of Judge Miller's appears to have a racially prejudiced opinion. The fact is, and it can be proven that Mrs. Freemon is not "Black" but Hawaiian.

Conclusion

11. In conclusion, the comments made in the Initial Decision of Administrative Law Judge Walter C. Miller (ID) appears to have no foundation as to the credibility of Elehue K. Freemon or Lucille K Freemon. This case has been prejudiced by ALJ Miller and his decision by this commission should to reviewed in favor for the complainants.



JAMES D. WAIDE

March 19, 1995

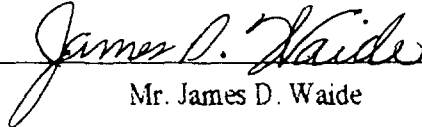
STATE OF CALIFORNIA)

: SS.:

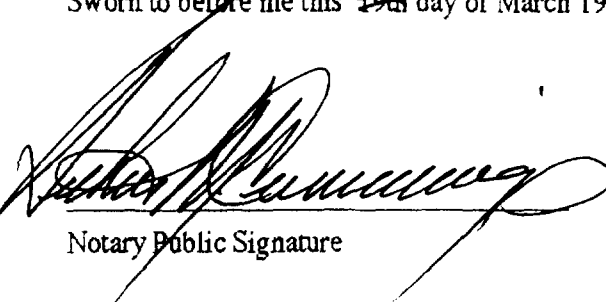
COUNTY OF SAN BERNARDINO)


I, James D. Waide, being duly sworn deposes and says:

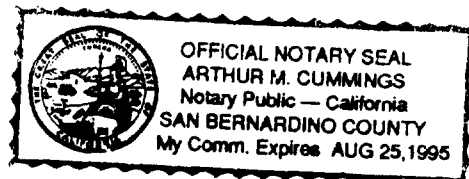
I hereby swear that the forgoing "Request for Participation" presented herewith under the provisions of the Federal Administrative Procedure Act CFR 1.225 (a), (b), (c) of CFR ch. I and under the of Administrative Law Judge Miller to be true and correct to the best of my knowledge and belief.


Mr. James D. Waide

Sworn to before me this ^{20TH} ~~19TH~~ day of March 1995


Notary Public Signature

Notary Seal
20TH 
March 19, 1995
Date



Certificate of Service

I, Dr. Gisela Spieler, hereby certify that a true copy of the foregoing "Request for Participation, March 20, 1995" was served on the March 22, 1995 by U.S. mail, postage prepaid upon the parties listed below:

Thomas D. Wyatt
Chief, Formal Complaints and Investigations Branch
Common Carrier Bureau
Federal Communications Commission
1250 23rd Street, N.W. - Plaza Level
Washington, D.C. 20554

Keith Nichols, Esq.
Enforcement Division
Common Carrier Bureau
Federal Communications Commission
Washington, D.C. 20554

Honorable Walter C. Miller
Administrative Law Judge
Federal Communications Commission
Washington, D.C. 20554

Secretary of FCC *
FCC
2025 M Street, N.W.
Washington, D.C. 20554

Peter H. Jacoby
295 N. Maple Ave., Room 3245 F3
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Lucille K. Freemon
730 W. Columbia
Long Beach, C.A. 90806

Elehue K. Freemon
General Delivery
Big Bear, Lake, CA 92315
(by hand)

Dr. Gisela Spieler

Certificate of Service

I, Dr. Gisela Spieler, hereby certify that a true copy of the foregoing Motion to correct "APPEAL" from March 23, 1995 was served on the March 25, 1995 by U.S. mail, postage prepaid upon the parties listed below:

Thomas D. Wyatt
Chief, Formal Complaints and Investigations Branch
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